

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

-2 DEC 03 PM 6:05

DOYLE ELLIS,)	DISTRICT OF UTAH
)	
Plaintiff,)	Case No. 2:03-CV-590-PGC
)	DEPUTY CLERK
v.)	
)	
BRUCE BURNHAM et al.,)	O R D E R
)	
Defendants.)	

Plaintiff, Doyle Ellis, an inmate at the Utah State Prison, has filed with the Court a pro se civil rights complaint, see 42 U.S.C.A. § 1983 (West Supp. 2003), and now moves to dismiss it without prejudice. Plaintiff asserts that "[h]e no longer feels physically or mentally competent to proceed" with this case because of terrifying conditions he faces in prison.¹ He states, "If I can I will try to ask the courts for help later." In his motion and accompanying letter, he seems articulate in his ability to express his position and concerns.

Under Federal Rule of Civil Procedure 41(a)(1), "an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer Unless otherwise stated in the notice of dismissal . . . , the dismissal is without prejudice."

¹Many of the conditions Plaintiff describes are new to this case. If Plaintiff wishes to raise them in a future federal civil rights case, he must exhaust his claims in the prison grievance process, then file a new complaint.

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However, Plaintiff has filed a motion instead of a notice, so the Court will respond to Plaintiff under Rule 41(a)(2), which allows the Court to order dismissal of a case "at the plaintiff's instance." Fed. R. Civ. P. 41(a)(2). The Court has not yet screened the complaint and ordered an answer.

IT IS THEREFORE ORDERED that Plaintiff's motion to dismiss his § 1983 complaint without prejudice is granted.

DATED this 2nd day of ^{December}~~November~~, 2003.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul G. CasSELL", is written over a horizontal line.

PAUL G. CASSELL
United States District Judge

tsh

United States District Court
for the
District of Utah
December 3, 2003

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00590

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Correction Section (FYI)
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